

# First Sale Customs Valuation: Legally Lowering the Landed Costs of Goods

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Each year, millions of dollars are paid in Customs duties unnecessarily because importers fail to take advantage of the "First Sale Rule," a legal route to reduce duty liability. Importers typically pay Customs duties on the price paid to their vendors. With the "First Sale Rule," an importer declares the value of its merchandise based on the first sale of a multi-tier transaction and therefore lowers its duty exposure.

## What is the First Sale Rule?

In many trade transactions, goods pass through two separate sales transactions. In the "first sale," goods are sold by the manufacturer to a vendor or middleman. In the "second sale" goods are sold by the middleman to the importer. Customs duties are typically assessed on the second sale transaction. The First Sale Rule allows importers to declare the value on the goods at the "first sale" transaction amount and pay customs duties on that amount. The difference between the second sale and the first sale reduces the landed cost of imported goods and creates a significant duty savings for importers. As an example, an importer issues a purchase order to a middleman vendor for 500,000 units at \$20/unit which equals \$10,000,000. The vendor issues a purchase order for the goods to a factory at \$15/unit totaling \$7,500,000. At a 12% rate of duty, the importer would be paying \$1,200,000 in duties. However, with "first sale," the importer would pay \$900,000. The importer has a \$300,000 savings by using the First Sale Rule.

First Sale is a judicially recognized method of appraisal and is supported by over twenty years of case law. The courts have set forth three requirements to meet the "first sale" standard: (i) a middleman serves as the buyer in the first sale and then as a seller in the subsequent sale of goods exported to the U.S.; (ii) the goods are clearly destined for export to the U.S.; and (iii) The foreign manufacturer/seller and middleman/buyer are unrelated or, if related, conduct their transactions at "arm's-length."

If an importer is paying significant Customs duties and has a stable vendor base, it may want to consider structuring their import transaction to take advantage of the First Sale Rule.